

4 pages

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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA
FRESNO DIVISION

In re:

TULARE LOCAL HEALTHCARE
DISTRICT dba TULARE REGIONAL
MEDICAL CENTER

Debtor.

Case No. 17-13797

Chapter 9

MRH-1

**REQUEST FOR PAYMENT OF AN
ADMINISTRATIVE EXPENSE AND
ADMINISTRATIVE PROOF OF CLAIM**

Date: May 17, 2018

Time: 9:30 a.m.

Place: 2500 Tulare Street, 5th Floor
Courtroom 13
Fresno, CA 94732

Medline Industries, Inc. ("Claimant"), by and through counsel of record, files this Request for Payment of an Administrative Expense and Administrative Proof of Claim (the "Administrative Request") against Tulare Local Healthcare District dba Tulare Regional Medical Center as debtor and debtor-in-possession (the "Debtor") pursuant to 11 U.S.C. § 503, made applicable in this Chapter 9 proceeding by 11 U.S.C. § 901.

I. LEGAL STANDARD

Section 503 provides in pertinent part that "(a) an entity may file a request for payment of an administrative expense and (b) after notice and a hearing, there shall be allowed

1 administrative expenses ... including (1)(A) the actual, necessary costs and expenses of
2 preserving the estate, including wages, salaries, or commissions for services rendered after the
3 commencement of the case.” 11 U.S.C. § 503.

4 The claimant must show that the debt asserted to be an administrative expense “(1)
5 arose from a transaction with the debtor-in-possession as opposed to the preceding entity (or,
6 alternatively, that the claimant gave consideration to the debtor-in-possession); and (2) directly
7 and substantially benefitted the estate.” *In re DAK Industries, Inc.*, 66 F.3d 1091, 1094 (9th
8 Cir. 1995) (quoting *In re White Motor Corp.*, 831 F.2d 106, 110 (6th Cir. 1987)). The
9 bankruptcy court has broad discretion to determine whether to grant such a claim. *See In re*
10 *Dant & Russell, Inc.*, 853 F.2d 700, 706 (9th Cir. 1988).

11 A key purpose of the rule is to ensure that the benefit was provided to the postpetition
12 estate, in contrast to the prepetition debtor. *In re Sports Shinko (Florida) Co., Ltd.*, 333 B.R.
13 483, 500 (Bankr. M.D.Fla. 2005) (HOA entitled to administrative expense where the
14 association continued to perform certain services and maintain property as this constituted
15 post-petition consideration); *In re Audre Inc.*, 59 Fed.Appx. 925, 927, No. 02-55535, 2003 WL
16 1459637, at *1 (9th Cir. 2003) (CEO entitled to administrative expense for running the day-to-
17 day operations to the benefit of the debtor).

18 II. ARGUMENT

19 Claimant is entitled to an order granting its Administrative Request and allowing its
20 claim pursuant to 11 U.S.C. §§ 503(b)(1) and 503(b)(9). First, Claimant provided goods to the
21 Debtor within 20 days of the Petition Date in the ordinary course of the Debtor’s business,
22 warranting allowance under Section 503(b)(9). *See* Claimant’s Declaration; *see also Exhibit*
23 *A*. Second, Claimant provided goods to Debtor after the Petition Date which are the actual,
24 necessary costs and expenses of preserving the estate. *Id.*

25 After applying all credits to which the Debtor is entitled, Claimant is entitled to
26 immediate payment of \$49,914.83 (the “Administrative Claim”), which amount is entitled to
27 administrative priority under 11 U.S.C. § 503(b) and which is entitled to the priority accorded
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1 under that provision and under 11 U.S.C. § 507(a)(2) in the captioned bankruptcy proceeding,
2 and which consists of the following specific amounts:

3 A. \$49,345.73 for the Section 503(b)(9) Claim; and

4 B. \$569.10 for the Section 503(b)(1) Claim.

5 Claimant expressly reserves all of the rights available to it as a reclaiming seller under
6 various provisions of the Bankruptcy Code (including Section 546(c)) and applicable non-
7 bankruptcy law. Further, because the Court has set April 10, 2018, as the last date to file
8 Administrative Expense Requests in the Case, Claimant's Administrative Request is filed in
9 conformity therewith and is timely.

10 Pursuant to, among other things, Section 503(a) of the Bankruptcy Code, Claimant
11 hereby requests payment in the amount of \$49,914.83 in payment of administrative expenses
12 owed to Claimant. By filing this Administrative Request, Claimant seeks to hold the Debtor
13 liable for the amounts set forth herein and requests immediate payment of such amounts.
14 Claimant expressly reserves its right to be paid in accordance with Section 943(b)(5) of the
15 Bankruptcy Code, as applicable to Debtor, and does not agree to a different treatment.¹

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24 ¹ This Request for Payment of Administrative Expense is filed under compulsion of the
25 applicable Bar Date established in the Case, and is filed to protect Claimant from forfeiture of
26 the Administrative Claim identified herein. By executing and causing to be filed this
27 Administrative Request, Claimant is not: (a) waiving or releasing Claimant's rights against any
28 other entity or person liable for all or part of the Administrative Claim, or (b) electing one
remedy which waives or otherwise affects any other remedy, or (c) deciding or electing to
reject or accept any settlement proposal related to the treatment of reclamation claims. Further,
Claimant expressly reserves the right to amend, modify, or supplement this Administrative
Request at any time as permitted by the Court or the Bankruptcy Code.

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III. CONCLUSION

For the aforementioned reasons, Claimant respectfully requests the Court grant the instant Administrative Request and allow Claimant’s claim in the amount of \$49,914.83 as an administrative priority claim under 11 U.S.C. § 503(b).

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By 
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